

Rule 3.1 Appearance

(A) Initiating party. At the time an action is commenced, the attorney representing the party initiating the proceeding or the party, if not represented by an attorney, shall file with the clerk of the court an appearance form setting forth the following information:

- (1) Name, address and telephone number of the initiating party or parties filing the appearance form;
- (2) Name, address, attorney number, telephone number, FAX number, and e-mail address of any attorney representing the party, as applicable;
- (3) The case type of the proceeding [Administrative Rule 8(B)(3)];
- (4) A statement that the party will or will not accept service by FAX or by e-mail from:
 - a. other parties and/or
 - b. the court under Rule 72(D).
- (5) In domestic relations, Uniform Reciprocal Enforcement of Support (URES), paternity, delinquency, Child in Need of Services (CHINS), guardianship, and any other proceedings in

1 which support may be an issue, the Social Security

2 Identification Number of all family members;

3 (6) The caption and case number of all related cases;

4 (7) Such additional matters specified by state or local rule required
5 to maintain the information management system employed by
6 the court;

7 (8) In a proceeding involving a protection from abuse order, a
8 workplace violence restraining order, or a no-contact order, the
9 initiating party shall provide to the clerk a public mailing
10 address for purposes of legal service. The initiating party may
11 use the Attorney General Address Confidentiality program
12 established by statute; and

13 (9) In a proceeding involving a mental health commitment, except
14 72 hour emergency detentions, the initiating party shall provide
15 the full name of the person with respect to whom commitment
16 is sought and the person's state of residence. In addition, the
17 initiating party shall provide at least one of the following
18 identifiers for the person:

19 (a) Date of birth;

(b) Social Security Number;

(c) Driver's license number with state of issue and date of expiration;

(d) Department of Correction number;

(e) State ID number with state of issue and date of expiration; or

(f) FBI number.

(B) Responding parties. At the time the responding party or parties first appears in a case, the attorney representing such party or parties, or the party or parties, if not represented by an attorney, shall file an appearance form setting forth the information set out in Section (A) above.

(C) Intervening Parties. At the time the first matter is submitted to the court seeking to intervene in a proceeding, the attorney representing the intervening party or parties, or the intervening party or parties, if not represented by an attorney, shall file an appearance form setting forth the information set out in Section (A) above.

(D) Confidentiality of Information Excluded from Public Access. Any appearance form information or record defined as not accessible to the

1 public pursuant to Administrative Rule 9(G)(1) shall be filed in a
2 manner required by Trial Rule 5.

3 **(E) Completion and correction of information.** In the event matters
4 must be filed before the information required by this rule is available,
5 the appearance form shall be submitted with available information and
6 supplemented when the absent information is acquired. Parties shall
7 promptly advise the clerk of the court of any change in the
8 information previously supplied to the court.

9 **(F) Forms.** The Division of State Court Administration shall prepare and
10 publish a standard format for compliance with the provisions of this
11 rule.

12 **(G) Service.** The Clerk of the Court shall use the information set forth in
13 the appearance form for service by mail, FAX, and e-mail under Trial
14 Rule 5(B)~~(2)~~.

15 **(H) Withdrawal of Representation.** An attorney representing a party
16 may file a motion to withdraw representation of the party upon a
17 showing that the attorney has sent written notice of intent to withdraw
18 to the party at least 10 days before filing a motion to withdraw
19 representation, and either:

(1) the terms and conditions of the attorney's agreement with the party regarding the scope of the representation have been satisfied, or

(2) withdrawal is required by Professional Conduct Rule 1.16(a), or is otherwise permitted by Professional Conduct Rule 1.16(b).

An attorney filing a motion to withdraw from representation shall certify the last known address and telephone number of the party, subject to the confidentiality provisions of Sections (A)(8) and (D) above, and shall attach to the motion a copy of the notice of intent to withdraw that was sent to the party.

A motion for withdrawal of representation shall be granted by the court unless the court specifically finds that withdrawal is not reasonable or consistent with the efficient administration of justice.

(I) Temporary or Limited Representation. If an attorney seeks to represent a party in a proceeding before the court on a temporary basis or a basis that is limited in scope the attorney shall file a notice of temporary or limited representation. The notice shall contain the information set out in Section (A) (1) and (2) above and a description of the temporary or limited status, including the date the temporary status ends or the scope of the limited

1 representation. The court shall not be required to act on the temporary or
2 limited representation. At the completion of the temporary or limited
3 representation the attorney shall file a notice of completion of
4 representation with the clerk of the court.

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6 **Rule 5. Service and Filing of Pleading and Other Papers**

7 **(A) Service: When Required.** Unless otherwise provided by these rules or an
8 order of the court, each party and special judge, if any, shall be served
9 with:

10 (1) every order required by its terms to be served;

11 (2) every pleading subsequent to the original complaint;

12 (3) every written motion except one which may be heard ex parte;

13 (4) every brief submitted to the trial court;

14 (5) every paper relating to discovery required to be served upon a party;

15 and

16 (6) every written notice, appearance, demand, offer of judgment,

17 designation of record on appeal, or similar paper.

1 No service need be made on parties in default for failure to appear, except
2 that pleadings asserting new or additional claims for relief against them
3 shall be served upon them in the manner provided by service of summons
4 in Rule 4.

5 **(B) Service: How made.** Whenever a party is represented by an attorney of
6 record, service shall be made upon such attorney unless service upon the
7 party himself is ordered by the court. Service upon the attorney or party
8 shall be made by delivering or mailing a copy of the papers to ~~him at his~~
9 the last known address, or where an attorney or party has consented to
10 service by FAX or e-mail as provided in Rule 3.1(A)(4), by faxing or e-
11 mailing a copy of the documents to the fax number or e-mail address set
12 out in the appearance form or correction as required by Rule 3.1(E).

13 *(1) Delivery.* Delivery of a copy within this rule means

14 (a) offering or tendering it to the attorney or party and stating the
15 nature of the papers being served. Refusal to accept an offered or
16 tendered document is a waiver of any objection to the sufficiency
17 or adequacy of service of that document;

1 (b) leaving it at his office with a clerk or other person in charge
2 thereof, or if there is no one in charge, leaving it in a conspicuous
3 place therein; or

4 (c) if the office is closed, by leaving it at his dwelling house or usual
5 place of abode with some person of suitable age and discretion
6 then residing therein; or,

7 (d) leaving it at some other suitable place, selected by the attorney
8 upon whom service is being made, pursuant to duly promulgated
9 local rule.

10 (2) *Service by Mail.* If service is made by mail, the papers shall be
11 deposited in the United States mail addressed to the person on whom
12 they are being served, with postage prepaid. Service shall be deemed
13 complete upon mailing. Proof of service of all papers permitted to be
14 mailed may be made by written acknowledgment of service, by
15 affidavit of the person who mailed the papers, or by certificate of an
16 attorney. It shall be the duty of attorneys when entering their
17 appearance in a cause or when filing pleadings or papers therein, to
18 have noted in the Chronological Case Summary or said pleadings or
19 papers so filed the address and telephone number of their office.

1 Service by delivery or by mail at such address shall be deemed
2 sufficient and complete.

3 (3) Service by FAX or e-mail. A party who has consented to service by
4 FAX or e-mail may be served as follows:

5 a. Service by e-mail shall be made by attaching the document being
6 served in .pdf format.

7 b. Service by FAX shall be deemed complete upon generation of a
8 transmission record indicating the successful transmission of the
9 entire document, except as provided in subparagraph d.

10 c. Service by e-mail shall be deemed complete upon transmission,
11 except as provided in subparagraph d.

12 d. Service by FAX or e-mail that occurs on a Saturday, Sunday, a
13 legal holiday, or a day the court or agency in which the matter is
14 pending is closed, or after 5:00 p.m. local time of the recipient shall be
15 deemed complete the next day that is not a Saturday, Sunday, legal
16 holiday, or day that the court or agency in which the matter is pending
17 is not closed.

1 **(C) Certificate of Service.** An attorney or unrepresented party tendering a
2 document to the Clerk for filing shall certify that service has been made,
3 list the parties served, and specify the date and means of service. The
4 certificate of service shall be placed at the end of the document and shall
5 not be separately filed. The separate filing of a certificate of service,
6 however, shall not be grounds for rejecting a document for filing. The
7 Clerk may permit documents to be filed without a certificate of service but
8 shall require prompt filing of a separate certificate of service.

9 **(D) Same: Numerous defendants.** In any action in which there are unusually
10 large numbers of defendants, the court, upon motion or of its own
11 initiative, may order

12 (1) that service of the pleadings of the defendants and replies thereto need
13 not be made as between the defendants;

14 (2) that any cross-claim, counterclaim, or matter constituting an avoidance
15 or affirmative defense contained therein shall be deemed to be denied
16 or avoided by all other parties; and

17 (3) that the filing of any such pleading and service thereof upon the
18 plaintiff constitutes due notice of it to the parties.

1 A copy of every such order shall be served upon the parties in such manner
2 and form as the court directs.

3 **(E) Filing.**

4 (1) Except as otherwise provided in subparagraph (2) hereof, all pleadings
5 and papers subsequent to the complaint which are required to be served
6 upon a party shall be filed with the Court either before service or
7 within a reasonable period of time thereafter.

8 (2) No deposition or request for discovery or response thereto under Trial
9 Rules 27, 30, 31, 33, 34 or 36 shall be filed with the Court unless:

10 (a) A motion is filed pursuant to Trial Rule 26(C) or Trial Rule 37 and
11 the original deposition or request for discovery or response thereto
12 is necessary to enable the Court to rule; or

13 (b) A party desires to use the deposition or request for discovery or
14 response thereto for evidentiary purposes at trial or in connection
15 with a motion, and the Court, either upon its own motion or that of
16 any party, or as a part of any pre-trial order, orders the filing of the
17 original.

18 (3) Custody of original and Period of Retention:

1 (a) The original of a deposition shall, subject to the provisions of Trial
2 Rule 30(E), be delivered by the reporter to the party taking it and
3 shall be maintained by that party until filed with the Court pursuant
4 to paragraph (2) or until the later of final judgment, agreed
5 settlement of the litigation or all appellate rights have been
6 exhausted.

7 (b) The original or any request for discovery or response thereto under
8 Trial Rules 27, 30, 31, 33, 34 and 36 shall be maintained by the
9 party originating the request or response until filed with the Court
10 pursuant to paragraph (2) or until the later of final judgment,
11 agreed settlement or all appellate rights have been exhausted.

12 (4) In the event it is made to appear to the satisfaction of the Court that the
13 original of a deposition or request for discovery or response thereto
14 cannot be filed with the Court when required, the Court may allow use
15 of a copy instead of the original.

16 (5) The filing of any deposition shall constitute publication.

17 **(F) Filing With the Court Defined.** The filing of pleadings, motions, and
18 other papers with the court as required by these rules shall be made by one
19 of the following methods:

- 1 (1) Delivery to the clerk of the court;
 - 2 (2) Sending by electronic transmission under the procedure adopted
 - 3 pursuant to Administrative Rule 12;
 - 4 (3) Mailing to the clerk by registered, certified or express mail return
 - 5 receipt requested;
 - 6 (4) Depositing with any third-party commercial carrier for delivery to the
 - 7 clerk within three (3) calendar days, cost prepaid, properly addressed;
 - 8 (5) If the court so permits, filing with the judge, in which event the judge
 - 9 shall note thereon the filing date and forthwith transmit them to the
 - 10 office of the clerk; or
 - 11 (6) Electronic filing, as approved by the Division of State Court
 - 12 Administration pursuant to Administrative Rule 16.
- 13 Filing by registered or certified mail and by third-party commercial carrier
- 14 shall be complete upon mailing or deposit
- 15 Any party filing any paper by any method other than personal delivery to
- 16 the clerk shall retain proof of filing.

17 **(G) Filing of Documents and Information Excluded from Public Access**

18 **and Confidential Pursuant to Administrative rule 9(G)(1). Every**

document filed in a case shall separately identify information excluded from public access pursuant to Admin. R. 9(G)(1) as follows:

(1) Whole documents that are excluded from public access pursuant to Administrative Rule 9(G)(1) shall be tendered on light green paper or have a light green coversheet attached to the document, marked “Not for Public Access” or “Confidential.”

(2) When only a portion of a document contains information excluded from public access pursuant to Administrative Rule 9(G)(1), said information shall be omitted [or redacted] from the filed document, and set forth on a separate accompanying document on light green paper conspicuously marked “Not for Public Access” or “Confidential” and clearly designated [or identifying] the caption and number of the case and the document and location within the document to which the redacted material pertains.

(3) With respect to documents filed in electronic format, the trial court, by local rule, may provide for compliance with this rule in manner that separates and protects access to information excluded from public access.

(4) This rule does not apply to a record sealed by the court pursuant to IC 5-14-3-5.5 or otherwise, nor to records, documents, or information filed in cases to which public access is prohibited pursuant to Administrative Rule (9)(G).

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Rule 72. Trial Court and Clerks

(A) Trial courts always open. The trial courts shall be deemed always open for the purpose of filing any pleading or other proper paper, of issuing and returning process and of making and directing all interlocutory motions, orders, and rules. Terms of court shall not be recognized.

(B) Trials and hearings--Orders in chambers. All trials upon the merits shall be conducted in open court and so far as convenient in a regular courtroom in or outside the county seat. All other acts or proceedings may be done or conducted by a judge in chambers, without the attendance of the clerk or other court officials and at any place either within or without the circuit; but, no hearing other than one ex parte, shall be conducted outside the state without the consent of all parties affected thereby.

(C) Clerk's office and orders by clerk. The clerk's office with the clerk or a deputy in attendance shall be open during business hours on all days

1 except Saturdays, Sundays, and legal holidays, but the circuit court judge
2 may provide by local rule or order that its clerk's office shall be open for
3 specified hours on Saturdays or particular legal holidays other than New
4 Year's Day, Washington's Birthday, Memorial Day, Independence Day,
5 Labor Day, Veterans Day, Thanksgiving Day, and Christmas Day. All
6 motions and applications in the clerk's office for issuing process, including
7 final process to enforce and execute judgments, and for other proceedings
8 which do not require allowance or order of the court are grantable of
9 course by the clerk; but the clerk's action may be suspended or altered or
10 rescinded by the court upon cause shown.

11 **(D) Notice of Orders or Judgments.** Immediately upon the notation in the
12 Chronological Case Summary of a ruling upon a motion, an order or
13 judgment, the clerk shall serve a copy of the entry ~~by mail~~ in the manner
14 provided for in Rule 5(B) upon each party who is not in default for failure
15 to appear and shall make a record of such ~~service-mailing~~. Such ~~service~~
16 ~~mailing~~ is sufficient notice for all purposes for which notice of the entry is
17 required by these rules; but any party may, in addition, serve a notice of
18 such entry in the manner provided in Rule 5 for the service of papers. In
19 cases of consolidated proceedings involving ten (10) or more parties, the
20 trial judge may provide by order for alternative method of notice to

1 designated liaison parties who undertake responsibility for forwarding
2 notice to all parties.

3 It shall be the duty of the attorneys when entering their appearance in a
4 case or when filing pleadings or papers therein, to have noted on the
5 Chronological Case Summary and on the pleadings or papers so filed, their
6 mailing address, and service by mail at such address shall be deemed
7 sufficient.

8 **(E) Effect of Lack of Notice.** Lack of notice, or the lack of the actual receipt
9 of a copy of the entry from the Clerk shall not affect the time within which
10 to contest the ruling, order or judgment, or authorize the Court to relieve a
11 party of the failure to initiate proceedings to contest such ruling, order or
12 judgment, except as provided in this section. When ~~the mailing service~~ of a
13 copy of the entry by the Clerk is not evidenced by a note made by the
14 Clerk upon the Chronological Case Summary, the Court, upon application
15 for good cause shown, may grant an extension of any time limitation
16 within which to contest such ruling, order or judgment to any party who
17 was without actual knowledge, or who relied upon incorrect
18 representations by Court personnel. Such extension shall commence when
19 the party first obtained actual knowledge and not exceed the original time
20 limitation.